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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/025,503 | 12/26/2001 | Michel J. Korwin | 145-02 US | 7871 |
| 25319 | 7590 | 10/28/2003 | EXAMINER | |
| FREEDMAN & ASSOCIATES 117 CENTREPOINTE DRIVE SUITE 350 NEPEAN, ONTARIO, K2G 5X3 CANADA | | | KASTLER, SCOTT R | |
| | | ART UNIT | | PAPER NUMBER |
| | | 1742 | | |
| DATE MAILED: 10/28/2003 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|---------------------------|------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/025,503 | KORWIN ET AL. |
| | Examiner Scott Kastler | Art Unit 1742 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 October 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 26-31 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-25 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 December 2001 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 . | 6) <input type="checkbox"/> Other: |

Election/Restrictions

Applicant's election of claims 1-25, Group I, in Paper No. 6 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 26-31 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 6.

Claim Objections

Claims 3, 4, 7-9, 11, 12, 15, 23 and 25 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The above claims are objected to as not properly further limiting the instant independent apparatus claims since the above claims recite only limitations dealing with the manner or method of use of the claimed apparatus (each of the above claims recite limitations dealing with the process conditions which are to be employed in the various chambers). It has been well settled that the manner or method of use of an apparatus cannot be relied upon to fairly further distinguish claims to the apparatus itself. See *In re Casey*, 152 USPQ 235 and MPEP 2114.

Claims 2 and 5 are objected to because of the following informalities: In the above claims, a "forth" processing cell is recited, it was assumed, for examination purposes, that this term was intended to be a "fourth" processing cell. Appropriate correction is requested.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The above claims are indefinite because the term "the forth port" on line 3 of instant claim 2 lacks any antecedent basis, thereby rendering the above claims indefinite.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Pelisser. Pelisser teaches a multi-cell thermal processing unit (6) including an air tight expandable common chamber or chambers (10, 10') including a non-ambient atmosphere (the rarefied atmosphere of col. 1 line 35 for example), a loading cell (15) linked to the common chamber by a gas tight door (15-1), a number (N) ports on the common chamber (10), first, second and third processing cells (14, 14, 14') comprising heating and quenching (cooling) cells including heat insulating doors (see col. 2 line 40 for example) a transport mechanism (18,22) and air tight sealing covers (12,15-1 and 16-1), thereby showing all aspects of the above claims since the claims as presently

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written do not exclude vacuum furnaces as disclosed by Pelisser, which also contain non-ambient atmospheres.

Claims 1 and 6-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Yokose et al. Yokose et al teaches a multi-cell thermal processing unit (see figs 1 and 2 for example) including an air tight common chamber(4) including a non-ambient atmosphere, a loading cell (2) linked to the common chamber by a gas tight door (3a), a number (N) ports on the common chamber (4), at least first, second and third processing cells (5a-5f, 6, 7 and 8) comprising heating and quenching (cooling) cells, a transport mechanism (12) and air tight sealing covers and heat insulating doors (3a-3j), thereby showing all aspects of the above claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hayes is also cited as a further example of multi cell thermal processing units.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Kastler whose telephone number is (703) 308-2506. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (703) 308-3050. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.

Scott Kastler

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Primary Examiner
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